IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 14407 of 2004

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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G.S.R.T.C. - Petitioner(s)

Versus

DHANIBEN DAHYABHAI BHANIYA - Respondent(s)

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Appearance :

MR ASHISH M DAGLI for Petitioner(s) : 1,
MR KISHOR M PAUL for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 21/09/2005

ORAL JUDGMENT

1. In the present petition, the S.T.Corporation has challenged the legality of an award dated 2nd June, 2004 passed by Labour Court, Gandhidham. The husband of the

workman was engaged as a conductor by the petitioner Corporation. While discharging his duties his bus was checked on 24th September, 1992. It was alleged that various groups of passengers were not issued tickets as many as 44 passengers were found travelling without tickets. It was also alleged that upon checking the conductor tried to issue tickets to some of the passengers hurriedly. Way bill was also not closed. Finding that the charges are proved the petitioner dismissed the conductor from service by an order dated 18th August, 1993. Shortly thereafter the conductor expired. His wife therefore, raised the Industrial Dispute. The Labour Court allowed reference in part directing payment of 25% wages for the period between 18/8/93 i.e. the date of dismissal of the workman till 26/12/95 when he expired. He was also held entitled to consequential benefits.

2. From the perusal of the award, it can be seen that the Labour Court found that the case of misappropriation is not proved against the conductor. The employer had conducted a full fledged inquiry and held the charges proved. The reporter was examined and evidence was adduced. There is no dispute about the fact that large

number of passengers were found travelling in the bus without issuance of tickets. In that view of the matter it was not open for the Labour Court to set aside the findings without there being sufficient material on record. Learned advocate Shri Paul appearing for the respondent urged that there was no intention on the part of the conductor not to issue tickets and it is not even the part of the charge that he had misappropriated fare collected from the passengers. He contended that the conductor was in the process of issuing tickets when the bus was checked. His contentions cannot be accepted. The charge sheet itself suggests that various groups of passengers had boarded from various villages and were travelling to different destinations. The disciplinary authority also had recorded that road booking was not permissible and the bus should have started only after issuance of tickets. Even if it is believed for a moment that the conductor only ignored such regulations, the fact that different group of passengers had boarded the bus from different points would show that they were not issued tickets for a long time. Subsequent conduct of the employee of trying to hurriedly issuing the tickets when the bus was checked also would show the intention on his part. The conclusion of the Labour Court that the

order of dismissal was harsh also cannot be sustained. Learned advocate Shri Dugli pointed out that in a short carrier of about three years the workman had committed fourth misconduct. Earlier he was visited with lesser punishments. Considering all these facts of the matter it is not possible to uphold the award of the Labour Court. The same is set aside. Rule is made absolute. No order as to costs.

(Akil Kureshi, J.)

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